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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

IN RE: CAPACITORS ANTITRUST
LITIGATION

Master File No. 14-CV-03264-JD

**JOINT STATEMENT REGARDING
PROPOSED CASE SCHEDULE**

THIS DOCUMENT RELATES TO:
ALL ACTIONS

Pursuant to the Court’s direction at the May 27, 2015 status conference and subsequent Minute Entry (Dkt. 724), Direct Purchaser Plaintiffs (“DPPs”), Indirect Purchaser Plaintiffs (“IPPs” and, together with DPPs, “Plaintiffs”), and Defendants have met and conferred at length regarding an expeditious yet workable discovery schedule in light of the Court’s lifting of the discovery stay. As a result of these discussions, the parties jointly request that the Court adjust the existing case schedule and adopt the parties’ jointly-proposed dates for the production of discovery¹ and briefing on FTAIA issues and class certification, as set forth in the chart below. Plaintiffs and Defendants share the view, based on their extensive meet and confer efforts, that the following schedule is needed for discovery to proceed in an orderly and efficient manner:

Event	Date
Defendants complete production of transactional data from active systems (if not already produced)	June 10, 2015
Plaintiffs substantially complete production of transactional data/invoices	June 10, 2015
Parties complete negotiations regarding Defendants’ document custodians	June 10, 2015
Parties complete negotiations regarding search terms	June 12, 2015
Parties submit any disputes regarding Defendants’ custodians or search terms to the Court	June 19, 2015
Plaintiffs submit initial written questions to Defendants concerning Defendants’ transactional sales data (to the extent not already submitted), for which Defendants will provide substantive responses by August 1, 2015 ²	June 19, 2015

¹ The parties acknowledge that individual issues sometimes arise with respect to certain documents. These jointly-proposed production dates are thus subject to any such individual issues that particular Defendants may raise with Plaintiffs, or that Plaintiffs may raise with Defendants. Additionally, these dates apply to the production of materials responsive to the discovery requests served to date. Should any further discovery requests be served, the parties will meet and confer regarding any necessary adjustments or additions to the production schedule.

² The parties recognize that questions regarding transactional sales data often require further investigation by the producing party’s counsel and/or foreign business units. Defendants are committed to working with Plaintiffs in good faith to provide substantive responses to data-related questions on a rolling basis in advance of the agreed-upon deadline of August 1, 2015, and to address by August 1, 2015 any follow-up questions seeking clarification of such responses. Defendants further commit to engage in good-faith efforts to respond to any new transactional data-related questions that Plaintiffs submit after June 19, 2015 on a rolling basis as soon as the

1	Defendants complete production of documents from centralized files responsive to Plaintiffs' first set of document requests (if not already produced)	June 30, 2015
2		
3	Defendants produce any documents from centralized files relating to trade association membership and/or meetings	July 10, 2015
4		
5	Defendants complete submission of rolling responses to Plaintiffs' initial transactional sales data-related questions received prior to June 19, 2015	July 17, 2015
6	Defendants begin rolling productions of documents from their document custodians ³	July 29, 2015
7		
8	Parties complete process of answering questions concerning Defendants' transactional sales data received by June 19, 2015 and any questions requesting clarification of Defendants' prior substantive responses	August 3, 2015
9		
10	Defendants produce any documents from centralized files relating to costs of manufacturing capacitors	August 7, 2015
11		
12	Parties indicate whether they intend to use experts in FTAIA briefing	August 17, 2015
13	Defendants substantially complete production of documents from centralized files	August 21, 2015
14	Defendants produce privilege logs regarding documents from centralized files	September 15, 2015
15	FTAIA motions filed	October 1, 2015
16	Defendants substantially complete rolling productions of documents from their document custodians	October 15, 2015
17		
18	Plaintiffs substantially complete production of documents responsive to Defendants' document requests	October 15, 2015
19	FTAIA oppositions filed	October 30, 2015
20		
21	Defendants produce privilege logs regarding documents from their document custodians	November 10, 2015
22	Plaintiffs produce privilege logs regarding documents responsive to Defendants' document requests	November 10, 2015
23	FTAIA replies filed	November 20, 2015
24		

relevant information becomes available without delay, and no later than five weeks after the new transactional data questions were received by Defendants.

³ Custodial productions will be based on the parties' agreed-upon document custodians and search terms. The parties have agreed that custodial documents will be produced on a rolling basis with regular production dates agreed to among the parties in good faith, and that Defendants will prioritize productions from certain custodians based on good faith requests from Plaintiffs.

1	Class certification motions filed ⁴	February 12, 2016
2	Class certification oppositions filed	May 2, 2016
3	Class certification replies filed	June 27, 2016

4

5 The jointly-proposed schedule above is still highly aggressive and substantially more fast-

6 paced than in comparable antitrust multi-district litigations.⁵ It reflects the parties' ongoing and

7 extensive efforts to work together to design a workable discovery schedule, as well as the

8 productions to date and the parties' substantial work to collect and produce responsive documents

9 in light of the Court's recent lifting of the discovery stay. At the initial case management

10 conference on October 29, 2014, the Court stayed discovery in the case, including all document

11 discovery (Dkt. 309). While the Court ordered on January 14, 2015 that limited discovery could

12 proceed on eight specific topics (not including documents produced to the U.S. Department of

13 Justice ("DOJ")), the discovery stay otherwise remained in place (Dkt. 514). During this time,

14 Defendants worked with Plaintiffs to collect and produce documents that were within the scope of

15 permissible discovery, including organizational charts, product catalogs and specification sheets,

16 transactional sales data, customer lists, price lists, and marketing materials. On April 6, 2015, the

17 DOJ indicated that it no longer objected to Defendants' production of documents prepared in the

18 ordinary course of business that had been produced to the grand jury, and that it did not seek an

19

20 ⁴ Regarding the parties' proposed adjustment in the class certification schedule, Plaintiffs believe

21 it is critical for their experts to understand what claims remain in the case prior to producing

22 expert reports. This process can only take place after the Court's ruling on the FTAIA motions,

23 the resolution of which may affect the scope of the claims Plaintiffs respectively seek to certify.

24 Accordingly, Plaintiffs request that the Court afford them at least 60 days following the Court's

25 ruling on FTAIA matters to file their respective motions for class certification.

26 ⁵ See *In re TFT-LCD (Flat Panel) Antitrust Litigation*, Order Re: Pretrial and Trial Schedule, Nov. 23, 2010 (Dkt. 2165), No. 07-md-1827-SI (N.D. Cal.) (setting discovery cut-off in May 2011, more than four years after class cases were filed in late 2006 and early 2007); *In re Optical Disk Drive Antitrust Litigation*, Order Re Discovery Matters, Dec. 17, 2012 (Dkt. 730), Case No. 10-md-2143-RS (JCS) (N.D. Cal.) (allowing document production in class cases to continue on a rolling basis until January 2013, approximately fifteen months after the start of document discovery); *In re Lithium Batteries Antitrust Litigation*, Stipulation and Order Regarding Defs.' Document Productions, Mar. 12, 2015 at 2 (Dkt. 678), Case No. 13-md-2420-YGR (DMR) (N.D. Cal.) (scheduling document production to end in mid-February 2016, nearly three and a half years after the action's inception).

1 extension of the discovery stay (Dkt. 631). Accordingly, on April 7, 2015, the Court lifted the
2 discovery stay and permitted discovery to proceed along the terms of the parties' stipulated
3 protective order (Dkt. 632).

4 Since the lifting of the discovery stay, all Defendants have produced the documents they
5 previously produced to the DOJ, most within two weeks of receiving Plaintiffs' request. The
6 parties have also continued to meet and confer regarding the scope and timing of document
7 productions, through individual calls, joint in-person meetings on April 20 and May 7, 2015, and
8 subsequent email exchanges and telephonic conferences. Many of the dates set forth in the
9 schedule above, including those relating to the negotiation of document custodians and search
10 terms, are the result of these meetings. The parties' meet and confer efforts have also addressed
11 production of documents from the representative Plaintiffs, who have agreed to begin their
12 productions shortly, by June 10, 2015.

13 The parties also propose this schedule to take into account the breadth of all parties'
14 outstanding discovery requests and the significant work needed to respond to them. Defendants
15 have, for example, agreed to search centrally-located files for responsive documents (which is
16 currently in progress), as well as files from document custodians based on agreed-upon search
17 terms. The parties are in the process of negotiating appropriate document custodians and search
18 terms pursuant to the schedule they agreed upon in early May. Discovery in this case also
19 involves significant amounts of information in Japanese and other non-English languages, making
20 the process of collecting, reviewing, and producing responsive materials more complicated and
21 time-consuming. Some Defendants' files are maintained primarily in hard copy, which will
22 require even more time to review, scan and generate text files if possible, and produce in a usable
23 format. Under these circumstances, Defendants do not believe that a shorter production schedule
24 is realistic.

25 Additionally, given the Court's recent Order on Motions to Dismiss (Dkt. 710), DPPs and
26 IPPs plan to file amended complaints by June 16, 2015. These amended complaints will require
27 responsive pleadings, potentially including further motions to dismiss. The parties are meeting
28 and conferring on an appropriate schedule for such motions or other responsive pleadings and

1 anticipate submitting a stipulation to the Court shortly. In light of these additional pleadings, the
 2 extensive discovery that is already underway, and the parties' good faith efforts to work together
 3 cooperatively to move the case forward, the proposed schedule above is warranted and needed for
 4 the litigation to proceed efficiently.

5 Dated: June 3, 2015

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Dated: June 3, 2015

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